

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

RODNEY E. PETTIGREW,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

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No. 4:14CV1085 HEA

OPIONION, MEMORANDUM AND ORDER

Before the Court is movant's pro se motion to amend his 28 U.S.C. § 2255 motion to vacate, set aside, or correct sentence, on the ground that movant believes he is eligible for relief under the Supreme Court case of *Johnson v. United States*, 135 S.Ct. 2551 (2015) [Doc. 12]. The Court will grant the motion to amend and, in addition, will liberally construe said motion as an amended motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255. In addition, the Office of the Federal Public Defender for the Eastern District of Missouri has now filed an entry of appearance and motion to supplement movant's § 2255 motion [Doc. 11]. The Court will grant the motion.

On August 14, 2015, this Court entered an Administrative Order, styled *In Re: Johnson v. United States*. Pursuant to the Administrative Order, the Court will forward movant's § 2255 motion and amended motion to the Office of the Public Defender for the Eastern District of Missouri, and provide the Public Defender forty-five (45) days to review the said motions and movant's criminal history in order to determine whether movant has a potential argument for a sentence reduction under *Johnson*. In order to facilitate this process, the Court has issued a separate Administrative Order, authorizing the Clerk of Court and the United States Probation

Office to provide to the Office of the Federal Public Defender and to the Office of the United States Attorney any records in their possession, including sealed records from the Court file regarding the movant's criminal history.

If the Public Defender's Office decides movant has a potential argument under *Johnson*, the Public Defender, no later than forty-five (45) days of the date of this Order, should file either an amended motion to vacate under § 2255 in this case, or a request in the Court of Appeals for leave to bring a successive § 2255 motion, as required by 28 U.S.C. § 2244(b)(3).

Accordingly,

IT IS HEREBY ORDERED that movant's pro se motion to amend his 28 U.S.C. § 2255 motion to vacate, set aside, or correct sentence, which indicates that movant believes he is eligible for relief under *Johnson v. United States*, 135 S.Ct. 2551 (2015) [Doc. 12] is **GRANTED**. The Court will also liberally construe said motion as an amended motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255.

IT IS FURTHER ORDERED that the Federal Public Defender's motion to supplement movant's § 2255 motion [Doc. 11] is **GRANTED**.

IT IS FURTHER ORDERED that the Clerk of Court is directed to forward a copy of movant's § 2255 motions to the Office of the Public Defender for the Eastern District of Missouri.

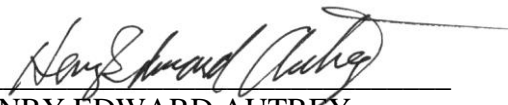
IT IS FURTHER ORDERED that the Public Defender shall notify this Court, within forty-five (45) days of the date of this Memorandum and Order, whether it will be pursuing movant's arguments under *Johnson*, either by filing a written notice in this action of their intent not to represent movant, or by filing an amended motion to vacate, brought pursuant to 28 U.S.C.

§ 2255, also in this action, or a request in the Court of Appeals for leave to bring a successive § 2255 motion, as required by 28 U.S.C. § 2244(b)(3).

IT IS FURTHER ORDERED that the Court shall hold this matter in abeyance for forty-five (45) days.

IT IS FURTHER ORDERED that the Clerk of Court shall docket this action as a “Johnson Case.”

Dated this 24th day of June, 2016



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE